UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,323	10/17/2003	Albert C. Gondi	200301267-2	2286

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EXAMINER
CHEN, TE Y

ART UNIT	PAPER NUMBER
2161	

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/688,323	GONDI ET AL.
	Examiner	Art Unit	
	Susan Y. Chen	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 October 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _____ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date *10/17/03*.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claims 1-14 are presented for examination.

Priority

Applicant's claim for the benefit of a prior-filed application No. 09/267,032

filed on 03/11/1999 under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or

365(c) is acknowledged.

Specification

The disclosure is objected to because of the following informalities:

The attempt to incorporate subject matter into this application by reference

to U.S. Application No. 09/267,032 is ineffective, because the patent No. is

missing for this application and it should be updated to reflect the actual status.

Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially
created doctrine grounded in public policy (a policy reflected in the statute) so as
to prevent the unjustified or improper timewise extension of the "right to exclude"
granted by a patent and to prevent possible harassment by multiple assignees.
A nonstatutory obviousness-type double patenting rejection is appropriate where
the conflicting claims are not identical, but at least one examined application
claim is not patentably distinct from the reference claim(s) because the examined
application claim is either anticipated by, or would have been obvious over, the
reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed.
Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In
re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686

F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is rejected under the judicially created doctrine of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,671,704. Although the conflicting claims are not identical, they are not patentably distinct from each other. To facilitate the comparing of these two claims, the recitation of these claims are listed as following:

Current Application	U.S. Patent No. '704
Claim 1: A method for committing a transaction, the method comprising the steps of:	Claim 1: A method of providing fault tolerant operation of a transaction processing system, the method comprising the steps of:
assigning a resource manager a globally unique identifier (GUID), the resource manager assigned to complete the transaction;	sending a prepare signal to a resource manager process to begin the process of committing a transaction, the resource manager process being a participant in the transaction and identified by a globally unique identifier;
detecting a failure such that the resource manager cannot	creating a backup resource manager process for taking

complete the transaction;	over the function and operation of the lost resource manager process, the lost resource manager process being unable to receive or respond to the commit signal;
assigning a backup resource manager the GUID when the failure is detected such that the transaction is completed by the backup resource manager.	assigning to the backup resource manager process the globally unique identifier of the lost resource manager process; and causing the backup resource manager process to complete the process of committing the transaction by (i) sending the stored state information to the backup resource manager process, in response to a query by the backup resource manager process using the assigned identifier, the backup resource manager process determining, from the stored state information, that the lost resource manager was a participant in the transaction, and (ii) sending information regarding the state of the transaction to the backup resource manager process, in response to a query by the backup resource manager process, the backup resource manager process taking steps to commit the transaction based on the transaction state received from the query.

Because Claim 1 of U.S. Patent No. '704 contains every element of claim

1 of the instant application and thus anticipates the claim of instant application.

Claim 1 of the instant application therefore is not patently distinct from the earlier

patent claim and as such is unpatentable over obvious-type double patenting. A

later patent/application claim is not patentably distinct from an earlier claim if the

later claim is anticipated by the earlier claim.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claims 2-3 and 12, are rejected under 35 U.S.C. 112, second paragraph,

as being indefinite for failing to particularly point out and distinctly claim the

subject matter which applicant regards as the invention.

As to claim 2, what is "broadcasting a commit signal, wherein the resource

manager is replaced by the backup resource manager when the detected failure

occurs after the ready signals are communicated and before the commit signal is

broadcasted" (i.e., who broadcasts "a commit signal" to whom? what does "the

ready signals" and "the commit signal" used for? please clarify the nature of

these signals. In addition, what is it meant by "broadcasting a commit signal...

and before the commit signal is broadcasted"?) For the purpose of this

examination, the claimed limitation starting from "wherein" phrase to the end of

this claim will not be given patentable weight.

As to claim 12, it is not understood why "a beginner transaction manager

facility (TMF), associated with the resource manager that causes a prepare

signal to be broadcasted" (i.e., why the claimed association causes a prepare

signal to be broadcasted? Who receives the claimed broadcasting?)

Furthermore, who determines "wherein the resource manager is replaced by the

backup resource manager when the resource manager is lost after the

communicated ready signals and before a commit signal is received?" (i.e., As

claimed, there are a plurality of other TMFs that each receives the prepare signal

and each communicates a ready signal back to the beginner TMF, what is the

links among the claimed beginner TMF, other TMFs and resource managers?

who determines the resource manager is lost and which resource managers

should be used as replacement backup resource manager?) For the purpose of

this examination, the limitations claimed starting from the "wherein" phrase to the

end of instant claim will not be given patentable weight.

As to claim 3, this claim has the same defects as it base claim 2, hence

are rejected for the same reason.

Because the ambiguous nature of instant claims, the following art rejection

is to the best that the examiner is able to ascertain.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-11 and 13-14, are rejected under 35 U.S.C. 102(b) as being

anticipated by U.S. Patent No. 5,768,587 issued to Freund et al. (hereinafter

referred as Freund).

Claim 1:

Freund discloses the claimed method, comprising:

assigning a resource manager a globally unique identifier (GUID), the

resource manager assigned to complete the transaction [e.g., the passing of

"GUID" to a resource manager at col. 7, lines 17-22];

detecting a failure such that the resource manager cannot complete the

transaction [e.g., the steps: 610, Fig. 6 & col. 12, lines 6-13] ; and

assigning the backup resource manager the GUID when the failure is

detected such that the transaction is completed by the backup resource manager

[e.g., steps: 440-450, Fig. 4 & the use of X/Open transaction ID as GUID via

mapping technique of the section "Perform Resource Manager operations" at col.

7, lines 6-58 & col. 12, lines 34-53].

Claim 4:

Except the limitations recited in claim 1, Freund further discloses the step

of detecting loss of the resource manager [e.g., Freund: col. 2, lines 2-5 & the

steps: 610-638, Fig. 6].

Claim 5:

Except the limitations recited in claim 1, Freund further discloses the step

of detecting loss of a component associated with the resource manager [e.g.

Freund: col. 2, lines 5-8 & the steps: 610-638, Fig. 6].

Claim 6:

Except the limitations recited in claim 1, Freund further discloses the step

of detecting loss of another node associated with the resource manager [e.g.,

Freund: col. 3, lines 66-col. 4, lines 49 & the steps: 610-650, Fig. 6].

Claim 7:

Except the limitations recited in claim 1, Freund further discloses the step

of detecting loss of communication from the resource manager [e.g., col. 8, lines

64 - col. 9, line 7 & the steps: 610-650, Fig. 6].

Claim 8:

Except the limitations recited in claim 1, Freund further discloses the step

of detecting loss of a processor unit associated with the resource manager [e.g.,

col. 1, lines 40-63 & the steps: 610-650, Fig. 6].

Claim 9:

Except the limitations recited in claim 1, Freund further discloses the step

of detecting loss of a process associated with the resource manager [e.g., the

steps: 610-650, Fig. 6].

Claim 10:

Freund further discloses a resource manager having an assigned globally

unique identifier (GUID) and assigned to complete the transaction [e.g., Fig. 4

and associated texts]; and

a backup resource manager that is assigned the GUID when the resource

manager is lost such that the transaction is completed by the backup resource

manager [e.g., the use of X/Open transaction ID as GUID via mapping technique

of the section "Perform Resource Manager operations" at col. 7, lines 6-58 & col.

12, lines 34-53 & Fig. 6 and associated texts].

Claim 11:

Except the limitations recited in claim 10, Freund further discloses the

transaction is performed using a two-phase transaction protocol [e.g., col. 1, lines

65 – col. 2, line 10].

Claims 13-14:

these claims recite similar subject matters as claims 1-11 in form of

system means with different wording, hence, are rejected along the same

rational.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

Claims 2-3 and 12, are rejected under 35 U.S.C. 103(a) as being

unpatentable over U.S. Patent No. 5,768,587 issued to Freund et al. (hereinafter

referred as Freund) in view of U.S. Patent No. 6,625,643 issued to Colby et al.

(hereinafter referred as Colby).

Claim 2:

Except the limitations recited in claim 1, Freund further discloses the

claimed method including:

associating a beginner transaction manager facility (TMF) with the

resource manager [e.g., Freund: col. 6, line 53 – col. 7, line 5 & col. 7, lines 51-

58];

issuing a prepare signal to a plurality of other TMFs that each receive the

prepare signal [e.g. Freund: col. 7, lines 66-col. 8, lines 28 & steps: 602, Fig. 6];

communicating a ready signal from each of the other TMFs back to the

beginner TMF [e.g., Freund: col. 8, lines 29-33 & steps: 604-608, Fig. 6];

issuing a commit signal [e.g., Freund: col. 8, lines 29-44 & col. 12, lines16-

53].

Freund does not specifically disclose the claimed broadcasting technique.

However, Colby discloses the claimed broadcasting technique [e.g.,

Abstract; the Topology Manager section starting at col. 5, line 59 – col. 7, line 19;

Broadcast Tools at col. 32, line 33 – col. 34, line 43].

Freund and Colby are both in the same field of endeavor to optimize the

transaction recovery processing via X/Open communication protocols [e.g.,

Freund: Fig. 2; Colby: col. 33, line 12-15], hence, with the teachings of Freund

and Colby in front of him/her, it would have been obvious for an ordinary skilled

person in the art at the time the invention was made to be motivated to modify

Freund's X/Open communication protocols with a broadcasting technique as

taught by Colby, because by doing so, as suggested by Colby the combined

method will support the managing of the broadcast data over a data network,

providing services for a scheduled broadcast event to automatically commits

system resources and sets up network interconnections for the broadcast,

monitor, tracking the usage of current network resource and deterring how

resources are to be allocated, that results in improving the method of managing

broadcast events over a data network [e.g., Colby: col. 3, lines 6-21].

Claim 3:

Except the limitations recited in claim 2, the combined method of Freund

and Colby further discloses the step of broadcasting the commit signal by the

backup resource manager [e.g., Freund: Fig. 6 and associated texts; Colby: col.

3, lines 13-15].

Claim 12:

this claim recites similar subject matters as claims 2 and 10 in form of

system with different words, hence, are rejected along the same rational.

Conclusion

To expedite the process of re-examination, the examiner requests that all

future correspondences in regard to overcoming prior art rejections or other

issues (e.g. 35 U.S.C. 112) set forth by the Examiner prior to the office action,

that applicant should provide and link to the most specific page and line numbers

of the disclosure where best support is found (see 35 U.S.C. 132).

The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure:

1) Schrab et al. (U.S. Patent No. 6,272,675) which discloses a system

generating of code for enable a user-developed client application to make

transaction across multiple hardware platforms.

2) Choy et al. (U.S. Patent No. 5,960,194) which discloses a system with method that generates multi-tiered indexing for partitioned data.

3) Daniels et al. (U.S. Patent No. 5,428,771) which discloses a system allowing transparent transaction coordination between distributed networks having different communication protocols.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Y. Chen whose telephone number is 571-272-4016. The examiner can normally be reached on Monday - Friday from 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan Y Chen
Examiner
Art Unit 2161

April 17, 2006 *Susan Chen*